

Department of Health  
Notice of Rulemaking Hearing  
Board of Medical Examiners  
Committee on Physician Assistants  
Division of Health Related Boards

There will be a hearing before the Tennessee Board of Medical Examiners' Committee on Physician Assistants to consider the promulgation of amendments to rules and a new rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-6-101, 63-19-104, 63-19-102, 63-19-105, 63-19-201, and Public Chapter 286 of the Public Acts of 2005. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 3:30 p.m. (CST) on the 20th day of December, 2005.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

Substance of Proposed Rules

Amendments

Rule 0880-3-.19 Committee Members, Officers, Consultants, Records, Declaratory Orders and Screening Panels, is amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) shall read:

- (6) The Committee authorizes the member who chaired the Committee for a contested case to be the agency member to make the decisions authorized

pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-19-104.

Rule 0880-10-.19 Committee Members, Officers, Consultants, Records, Declaratory Orders and Screening Panels, is amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) shall read:

- (6) The Committee authorizes the member who chaired the Committee for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-19-104, and 63-19-201.

## New Rule

### Table of Contents

0880-3-.24 Physician Assistant Professional Corporations and Physician Assistant Professional Limited Liability Companies

0880-3-.24 Physician Assistant Professional Corporations and Physician Assistant Professional Limited Liability Companies.

- (1) Physician Assistant Professional Corporations (PAPC) – Except as provided in this rule Physician Assistant Professional Corporations shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.
  - (a) Filings – A PAPC need not file its Charter or its Annual Statement of Qualifications with the Committee.
  - (b) Ownership of Stock – Only the following may form and own shares of stock in a foreign or domestic PAPC doing business in Tennessee:

1. Physician Assistants licensed pursuant to Tennessee Code Annotated Title 63, Chapter 19 or licensed in another state; and/or
  2. Physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapters 6 or 9 or licensed in another state; and/or
  3. A foreign or domestic general partnership, PAPC or PAPLLC in which all partners, shareholders, members or holders of financial rights are physician assistants licensed pursuant to Tennessee Code Annotated Title 63, Chapter 19 to practice as physician assistants in Tennessee or physician assistants licensed by other states, or composed of entities which are directly or indirectly owned by such licensed physician assistants; and/or
  4. A foreign or domestic general partnership, or Medical Professional Corporation in which a majority of shares are owned by physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapters 6 or 9 to practice medicine in Tennessee or physicians licensed by other states, or composed of entities in which a majority of shares are directly or indirectly owned by such physicians; and/or
  5. A foreign or domestic general partnership, or Medical Professional Limited Liability Company in which a majority of the members or holders of financial rights are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapters 6 or 9 to practice medicine in Tennessee or physicians licensed by other states, or composed of entities in which a majority of the members or holders of financial rights are physicians.
- (c) Officers and Directors of Physician Assistant Professional Corporations -
1. All, except the following officers, must be persons who are eligible to form or own shares of stock in a Physician Assistant Professional Corporation as limited by T.C.A. § 48-101-610 (d) (1), (2), and/or (3) and subparagraph (1) (b) of this rule:
    - (i) Secretary;
    - (ii) Assistant Secretary;

(iii) Treasurer; and

(iv) Assistant Treasurer.

2. With respect to members of the Board of Directors, only persons who are eligible to form or own shares of stock in a Physician Assistant Professional Corporation as limited by T.C.A. § 48-101-610 (d) (1), (2), and/or (3) and subparagraph (1) (b) of this rule shall be directors of a PAPC.

(d) Practice Limitations

1. Engaging in, or allowing another physician assistant incorporator, shareholder, officer, or director, while acting on behalf of the PAPC, to engage in, practice as a physician assistant in any area or specialty beyond that which is specifically set forth in the charter may be a violation of the professional ethics enumerated in Rule 0880-3-.13 and/or Rule 0880-3-.15 (1) (a).
2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a PAPC.
3. Nothing in these rules shall be construed as prohibiting a PAPC from electing to incorporate for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of sound judgment by the physician assistant incorporators, directors, officers, shareholders, employees or contractors of the PAPC who are practicing as physician assistants as defined by Tennessee Code Annotated, Section 63-19-102.
4. Nothing in these rules shall be construed as prohibiting a physician assistant from owning shares of stock in any type of professional corporation other than a PAPC so long as such ownership interests do not interfere with the exercise of sound judgment by the physician assistant while practicing as a physician assistant as defined by Tennessee Code Annotated, Section 63-19-102.

- (2) Physician Assistant Professional Limited Liability Companies (PAPLLC)  
- Except as provided in this rule Physician Assistant Professional Limited Liability Companies shall be governed by either the provisions of Tennessee Code Annotated, Title 48, Chapter 248 or Public Chapter 286 of the Public Acts of 2005.
- (a) Filings - Articles filed with the Secretary of State shall be deemed to be filed with the Committee and no Annual Statement of Qualifications need be filed with the Committee.
- (b) Membership - Only the following may be members or holders of financial rights of a foreign or domestic PAPLLC doing business in Tennessee:
1. Physician Assistants licensed pursuant to Tennessee Code Annotated Title 63, Chapter 19 or licensed in another state; and/or
  2. Physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapters 6 or 9 or licensed in another state; and/or
  3. A foreign or domestic general partnership, PAPC or PAPLLC in which all partners, shareholders, members or holders of financial rights are physician assistants licensed pursuant to Tennessee Code Annotated Title 63, Chapter 19 to practice as physician assistants in Tennessee or physician assistants licensed by other states, or composed of entities which are directly or indirectly owned by such licensed physician assistants; and/or
  4. A foreign or domestic general partnership, or Medical Professional Corporation in which a majority of shares are owned by physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapters 6 or 9 to practice medicine in Tennessee or physicians licensed by other states, or composed of entities in which a majority of shares are directly or indirectly owned by such physicians; and/or
  5. A foreign or domestic general partnership, or Medical Professional Limited Liability Company in which a majority of the members or holders of financial rights are physicians licensed pursuant to Tennessee Code Annotated Title 63, Chapters 6 or 9 to practice medicine in Tennessee or physicians licensed by other states, or composed of entities in which a majority of the members or holders of financial rights are physicians.

(c) Managers, Directors or Governors of a PAPLLC

1. All, except the following managers, must be persons who are eligible to form or become members or holders of financial rights of a physician assistant professional limited liability company as limited by T.C.A. § 48-248-401 and subparagraph (2) (b) of this rule:
  - (i) Secretary
  - (ii) Treasurer
2. Only persons who are eligible to form or become members or holders of financial rights of a physician assistant professional limited liability company as limited by T.C.A. § 48-248-401 and subparagraph (2) (b) of this rule shall be allowed to serve as a director, or serve on the Board of Governors of a PAPLLC.

(d) Practice Limitations

1. Engaging in, or allowing another physician assistant member, officer, manager, director, or governor, while acting on behalf of the PAPLLC, to engage in, practice as a physician assistant in any area or specialty beyond that which is specifically set forth in the articles of organization may be a violation of the professional ethics enumerated in Rule 0880-3-.13 and/or Rule 0880-3-.15 (1) (a).
2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a PAPLLC.
3. Nothing in these rules shall be construed as prohibiting a PAPLLC from electing to form for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of sound judgment by the physician assistant members or holders of financial rights, governors, officers, managers, employees or contractors of the PAPLLC who are practicing as physician assistants as defined by Tennessee Code Annotated, Section 63-19-102.

4. Nothing in these rules shall be construed as prohibiting a physician assistant from being a member of any type of professional limited liability company other than a PAPLLC so long as such membership interests do not interfere with the exercise of sound judgment by the physician assistant while practicing as a physician assistant as defined by Tennessee Code Annotated, Section 63-19-102.
  5. All PAPLLCs formed in Tennessee pursuant to Tennessee Code Annotated, Section 48-248-104 or Public Chapter 286 of the Public Acts of 2005, to provide services only in states other than Tennessee shall annually file with the Committee a notarized statement that they are not providing services in Tennessee.
- (3) Dissolution - The procedure that the Committee shall follow to notify the attorney general that a PAPC or a PAPLLC has violated or is violating any provision of Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005, shall be as follows but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated, Sections 48-101-624 or 48-248-409.
- (a) Service of a written notice of violation by the Committee on the registered agent of the PAPC and/or PAPLLC or the secretary of state if a violation of the provisions of Tennessee Code Annotated, Title 48, Chapters 101 and/or 248 or Public Chapter 286 of the Public Acts of 2005 occurs.
  - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
  - (c) The notice of violation shall state that the PAPC and/or PAPLLC must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Committee's satisfaction that the alleged violation(s) did not occur.
  - (d) The notice of violation shall state that, if the Committee finds that the PAPC and/or PAPLLC is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to Tennessee Code Annotated, Title 48.
  - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested

case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 but that the PAPC and/or PAPLLC, through its agent(s), shall appear before the Committee at the time, date, and place as set by the Committee and show cause why the Committee should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Committee shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.

- (f) If, after the proceeding the Committee finds that a PAPC and/or PAPLLC did violate any provision of Title 48, Chapters 101 and/or 248 or these rules, and failed to correct said violation or demonstrate to the Committee's satisfaction that the violation did not occur, the Committee shall certify to the attorney general and reporter that it has met all requirements of either Tennessee Code Annotated, Sections 48-101-624 (1) - (3) and/or 48-248-409 (1)-(3) and/or Public Chapter 286 of the Public Acts of 2005.
- (4) Violation of this rule by any physician assistant individually or collectively while acting as a PAPC or as a PAPLLC may subject the physician assistant(s) to disciplinary action pursuant to Rule 0880-3-.15 (1) (a).
- (5) The authority to own shares of stock or be members or holders of financial rights in a PAPC or a PAPLLC granted by statute or these rules to professionals not licensed in this state shall in no way be construed as authorizing the practice of any profession in this state by such unlicensed professionals.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-6-101, 63-19-104, 63-19-102, 63-19-105, and Public Chapter 286 of the Public Acts of 2005.

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010 615-532-4397.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Board of Medical Examiners' Committee on Physician Assistants.

---

Robbie H. Bell, Director  
Health Related Boards

Subscribed and sworn to before me this the 7th day of October, 2005.

---

Notary Public

My commission expires on the 25<sup>th</sup> day of March, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 2005.

---

Riley C. Darnell  
Secretary of State

By: \_\_\_\_\_